

Appeal from a decision of the Colorado State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer COC 50397.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases: Offers to Lease

Land which is not within a special tar sand area is subject to noncompetitive oil and gas leasing under 30 U.S.C. @ 226(c)(1) (Supp. V 1987), only if the land had been offered for competitive bidding under 30 U.S.C. § 226(b)(1)(A) (Supp. V 1987), and no bid was received or the highest bid received was less than the national minimum acceptable bid.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases: Offers to Lease

A parcel which was listed for competitive sale but was later withdrawn by BLM is not subject to noncompetitive leasing under 30 U.S.C. § 226(c)(1) (Supp. V 1987), until the land has been made available for oral bidding under 30 U.S.C. § 226(b)(1)(A) (Supp. V 1987), and no bid was submitted or the highest bid received was less than the national minimum acceptable bid.

APPEARANCES: Robert G. Volkmann, pro se.

OPINION BY ADMINISTRATIVE JUDGE BYRNES

Robert G. Volkmann has appealed from the September 6, 1989, decision of the Colorado State Office, Bureau of Land Management (BLM), rejecting

his noncompetitive oil and gas lease offer COC 50397. Appellant's noncompetitive offer was filed on June 16, 1989, prior to the August 1989 competitive sale at which the subject land was offered as parcel COC 50339. Bids were received at the sale and competitive lease COC 50339 was issued to High Plains Energy Company. Appellant contends that the parcel was listed in the August 1989 sale by mistake, and requests that "any further action on COC 50339 be suspended until a review of the facts of this case." 1/

[1] The issuance of oil and gas leases for public lands is governed by the Mineral Leasing Act as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA), 30 U.S.C. § 226 (Supp. V 1987). Under 30 U.S.C. § 226(b)(1)(A) (Supp. V 1987), all land to be leased for oil and gas which is not within a special tar sand area is required to be leased to the highest competitive bidder pursuant to a sale conducted by oral bidding. If no bids are received for a parcel or the highest bid is less than the national minimum acceptable bid, BLM is required to make the parcel available for noncompetitive leasing under 30 U.S.C. § 226(c) (Supp. V 1987), promptly within 30 days. The parcel remains available for noncompetitive leasing for a period of 2 years after the competitive lease sale.

Appellant contends that the acreage contained in his application had been offered for competitive leasing on September 8, 1988, as part of parcel CO-211. He asserts that the parcel drew no bids and became available for noncompetitive leasing for a 2-year period commencing on September 9, 1988. Appellant notes that noncompetitive lease COC 49395 was issued and covered other portions of parcel CO-211. Appellant asserts that his application covers the remaining portion of CO-211 and should also be authorized. Appellant's assertions are based on an incorrect chronology of parcel CO-211 which has led him to an erroneous conclusion.

On July 15, 1988, BLM posted a notice of competitive oil and gas lease sale listing parcel CO-211, which was described as lots 5 and 6, sec. 19, and lots 15 and 16, sec. 24, T. 11 N., R. 91 W., sixth principal meridian, Colorado. On September 7, 1988, parcel CO-211 was withdrawn from the sale because the stipulations indicated in the Notice of Sale were incorrect. Lots 5 and 6 of sec. 19 were offered as parcel CO-273 at the sale conducted on November 17, 1988. No bid was received for this parcel, and noncompetitive lease COC 49395 was issued on December 30, 1988.

Lots 15 and 16 of sec. 24, however, were not listed for sale until June 19, 1989, 3 days after appellant filed his noncompetitive offer for this land. 2/ On August 10, 1989, the competitive sale was held, and the parcel was leased competitively to the high bidder under COC 50339.

1/ Because we decide the issue of this case, there is no need to rule on appellant's request for a stay.

2/ Regulations implementing the new statutory requirements provide that lands become available for noncompetitive leasing

"for a period of two years beginning on the first business day following the last day of the competitive oral auction, or when formal

[2] Although appellant asserts that COC 50339 was listed on the August 1989 sale by mistake, the fact remains that the parcel had not been previously subjected to competitive leasing as required by 30 U.S.C. § 226(b)(1)(A) (Supp. V 1987). A parcel which has been listed for competitive oil and gas lease sale but was later withdrawn by BLM is not subject to noncompetitive leasing under 30 U.S.C. § 226(c)(1) (Supp. V 1987), until the land has been made available for oral bidding under 30 U.S.C. § 226(b)(1)(A) (Supp. V 1987), and no bid was received or the highest bid received was less than the national minimum acceptable bid.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Byrnes
Administrative Judge

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I concur:

Gail M. Frazier
Administrative Judge.

fn. 2 (continued)

nominations have been requested as specified in § 3120.3-1 of this title, or the first business day following the posting of the Notice of Competitive Lease Sale, and ending on that same day 2 years later."

43 CFR 3110.1(b).

